

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

DAVE HARRIS,

Petitioner,

Case No. 2:15-cv-126

v.

HONORABLE PAUL L. MALONEY

JEFF WOODS,

Respondent.

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**ORDER ADOPTING REPORT AND RECOMMENDATION**

This is a habeas corpus petition filed pursuant to 28 U.S.C. § 2254. The matter was referred to the Magistrate Judge, who issued a Report and Recommendation (“R&R”) on April 24, 2020, recommending that this Court lift the stay that administratively closed the case and dismiss the case with prejudice. Respondent, through counsel, received a copy of the R&R electronically. The copy of the R&R mailed to the Petitioner at his last known address in the MDOC was returned to the Court marked “Return to Sender – Deceased”. The R&R notes that Petitioner was discharged from the MDOC on April 18, 2020.

As required by statute, the magistrate judge filed the R&R with the Court and mailed a copy to the Petitioner at his last known address. *See* 28 U.S.C. § 636(b)(1)(C) (“the magistrate judge shall file his proposed findings and recommendations under subparagraph (B) with the court and a copy shall forthwith be mailed to all parties.”). Upon placing the R&R in the mail to the Petitioner’s last known address, service was complete. Fed. R. Civ. P. 5(b)(2)(C). Petitioner has a continuing obligation to apprise the Court of his current address. *See* W.D. Mich. L.Civ.R. 41.1 (“Failure of a plaintiff to keep the Court apprised of his current address shall be grounds for

dismissal for want of prosecution.”). Even though the Petitioner has not received a copy of the R&R, Petitioner has been properly served under the Federal Rules of Civil Procedure.

After being served with a R&R issued by a Magistrate Judge, a party has fourteen days to file written objections to the proposed findings and recommendations. 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b); *United States v. Sullivan*, 431 F.3d 976, 984 (6th Cir. 2005). Failure to file an objection results in a waiver of the issue and the issue cannot be appealed. *Id.* See also *Thomas v. Arn*, 474 U.S. 140, 155 (1985) (upholding the Sixth Circuit's practice). No objections have been filed to date.

This Court has reviewed the merits of the report and finds the magistrate judge's reasoning and conclusions sound. Accordingly,

**IT IS HEREBY ORDERED** that the Report and Recommendation (ECF No. 24) is APPROVED and ADOPTED as the opinion of the Court.

**IT IS FURTHER ORDERED** that the Stay is LIFTED.

**IT IS FURTHER ORDERED** that Petitioner's petition is DISMISSED WITH PREJUDICE for the reasons stated in the Report and Recommendation.

**IT IS FURTHER ORDERED** that a certificate of appealability pursuant to 28 U.S.C. § 2253(c) is DENIED as to each issue asserted. See RULES GOVERNING § 2254 CASES, Rule 11 (requiring the district court to “issue or deny a certificate of appealability when it enters a final order”). Petitioner has not demonstrated that reasonable jurists would find the Court's rulings debatable or wrong. *Slack v. McDaniel*, 529 U.S. 473 (2000); *Murphy v. Ohio*, 263 F.3d 466, 466-67 (6th Cir. 2001).

Dated: June 11, 2020

/s/ Paul L. Maloney  
Paul L. Maloney  
United States District Judge